

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)
(PCT Rule 44bis.1(c))

To:

NUTRINOVA NUTRITION SPECIALTIES & FOOD
INGREDIENTS GMBH
c/o Ticona GmbH
Intellectual Property EU / R 300
Professor-Staudinger-Strasse
65451 Kelsterbach
ALLEMAGNE

Date of mailing (<i>day/month/year</i>) 12 October 2006 (12.10.2006)		IMPORTANT NOTICE	
Applicant's or agent's file reference 04/011 NUT			
International application No. PCT/EP2005/002717	International filing date (<i>day/month/year</i>) 15 March 2005 (15.03.2005)	Priority date (<i>day/month/year</i>) 29 March 2004 (29.03.2004)	
Applicant NUTRINOVA NUTRITION SPECIALTIES & FOOD INGREDIENTS GMBH et al			

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

Ticona GmbH/Patente	
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The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. 441 22 338 82 70	Authorized officer Ellen Moyse e-mail: pt05@wipo.int
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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

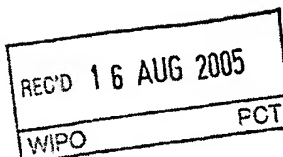
(PCT Rule 44bis)

Applicant's or agent's file reference 04/011 NUT	FOR FURTHER ACTION	See item 4 below
International application No. PCT/EP2005/002717	International filing date (<i>day/month/year</i>) 15 March 2005 (15.03.2005)	Priority date (<i>day/month/year</i>) 29 March 2004 (29.03.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant NUTRINOVA NUTRITION SPECIALTIES & FOOD INGREDIENTS GMBH		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 <i>bis</i> .1(a).																								
2.	<p>This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 60%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<input type="checkbox"/>	Box No. VIII	Certain observations on the international application																							
4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).																								

	Date of issuance of this report 04 October 2006 (04.10.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Ellen Moyse
Facsimile No. +41 22 338 82 70 Form PCT/IB/373 (January 2004)	e-mail: pt05@wipo.int

PATENT COOPERATION TREATY



From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

13/10

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2005/002717

International filing date (day/month/year)
15.03.2005

Priority date (day/month/year)
29.03.2004

International Patent Classification (IPC) or both national classification and IPC
A23L1/09, A23L2/52, A23L2/60, A21D2/18, A23C9/20, A23G9/00, C07H3/06

Applicant
NUTRINOVA NUTRITION SPECIALTIES & FOOD ...

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Authorized Officer

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2005/002717

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2005/002717

Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2, 8-10, 15, 17, 18
	No: Claims	1, 3-7, 11-14, 16, 19, 20
Inventive step (IS)	Yes: Claims	
	No: Claims	1-20
Industrial applicability (IA)	Yes: Claims	1-20
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Item V

- 1 Reference is made to the following documents:

D1: WO-A-02 087359

D2: WO-A-99 30577

- 2 The subject-matter of present independent claims 1, 7 and 16 as well as that of present dependent claims 3-6, 11-14, 19 and 20, is not novel (Art.33 (2) PCT).
- 2.1 D1 anticipates the subject-matter of present claims 1, 3, 4, 7, 11 and 16 (see [0007], [0009] - [0010]; claims 1-9, 11, 12, 25, 26 of D1) and D2 anticipates the subject-matter of present claims 1, 5-7, 11-14, 16, 19 and 20 (see page 5, lines 4-6; claims 1, 14, 21 and 22 of D2).
- 3 It does not appear that present dependent claims: $a_1/2$, $a_2/$ 8-10 and 15, and $a_3/$ 17-18, contain technical features that would establish novelty and / or inventive step (Art.33 (2) and / or (3) PCT) for the subject-matter of present independent claims: $b_1/$ 1, $b_2/$ 7 and $b_3/$ 16, over the aforementioned prior art, as the subject-matter of said dependent claims represents merely trivial design possibilities not connected to any unexpected technical effect of advantage.
- 4 The subject-matter of present claims 1-20 is susceptible of industrial application in the field of food industry (Art.33 (4) PCT).

Item VII

- 5 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.
- 6 The expression "and the like" (see, e.g. page 1, line 24 and page 4, line 31 of the present description) contravenes Rule 9.1.iv PCT.